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ABSTRACT

The 1970 amendments to ESEA Title I were designed to ensure that Title I expenditures would actually be "extra" Federal resources for disadvantaged school children and went into effect on July 1, 1972. Two months following that date, the Lawyers' Committee for Civil Rights Under Law reported widespread violations of the comparability requirements among school districts receiving Title I funds. The present report, one year after enforcement of the Act, studies the extent of compliance with the comparability regulations of the 1970 amendments among a cross-section of the nation's public school districts. The report explains in some detail the concept and mechanics of the comparability requirements, statistical findings are presented, and a detailed comparison is made between the October 1971 comparability regulations and the new regulations issued by the Office of Education in June 1973. Finally, a brief insight into the future of comparability compliance and enforcement efforts is presented. [The tables in Appendix A are marginally legible.] (Author/RJ)

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TITLE I COMPARABILITY:

ONE YEAR LATER

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Civil Rights Under Law
Washington, D. C.

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TITLE I COMPARABILITY: ONE YEAR LATER

by Daniel Badger */
R. Stephen Browning **/

INTRODUCTION

Education programs designed to concentrate extra federal resources on disadvantaged children have no chance of success so long as those children do not receive their fair share of state and local educational expenditures. Title I of the Elementary and Secondary Education Act of 1965 was designed to devote extra education funds to the disadvantaged. And the 1970 amendments to that Act -- which required "comparability" in the per-pupil expenditures of state and local monies among the schools within a district receiving Title I funds -- were designed to insure that Title I expenditures would actually be "extra" federal resources for disadvantaged school children.

The amendments specified that the comparability requirements would go into effect on July 1, 1972. However, two months following that date, the Lawyers' Committee for Civil Rights Under Law published a report documenting widespread violations of the comparability requirements among school districts receiving Title I funds. Now, on the first anniversary of the legal enforceability

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of comparability, the staff of the Lawyers' Committee has prepared a second study examining the extent of compliance with the comparability regulations among a cross section of America's public school districts.

This chapter is divided into four sections. First, the study's conclusions are briefly summarized. The next section explains in some detail the concept and mechanics of the comparability requirements, including a description of the revised rules governing comparability recently issued by the U.S. Office of Education (USOE). In Section three, the operation and effects of alternative sets of comparability requirements are examined; statistical findings are presented; and a detailed comparison is made between the October, 1971 comparability regulations and those issued by USOE in June, 1973. The concluding section of the chapter presents a brief insight into the future of comparability compliance and enforcement efforts.

I. SUMMARY OF LATEST COMPARABILITY STUDY

In September 1972, the staff of the Lawyers' Committee School Finance Project prepared a report analyzing the performance of 80 local education agencies (LEA's) from thirty-one states in complying with the comparability requirements of Title I, ESEA. This report determined that

> remarkably little, if any, compliance with the comparability regulations has been achieved... the overwhelming number of school districts receiving Title I funds have taken no action to comply with comparability requirements, and few have plans to do so.

The report found only one LEA among the 80 in which full compliance had been achieved. Twenty of the LEA's examined lacked comparability in 80% or more of their Title I schools; in 45 LEA's, more than half of the schools lacked comparability.

The present study, based on more recent data, evaluates the changes that have occurred in the nine months since the first study was completed. This second reading, some of which is actual improvement and some of which is illusory, shows an improved picture of comparability compliance. Much of the improvement is illusory since a change recently made to the regulations, which prescribes how comparability is to be measured, has made many previously non-comparable schools comparable. However,

the newer data may actually present an improved picture of comparability, because LEA's have had more time to make the changes needed to move towards comparability (as well as having acquired more sophistication in preparing comparability reports that make the district look good).

All of the information on comparability used in this study was taken from the LEA's own comparability reports. No effort was made to verify independently the validity and reliability of the data presented in these reports. The study borrows generously from an analysis conducted by the U.S. Office of Education in which comparability reports obtained by USOE from state education agencies (SEA's) were checked for comparability both under the current regulations and under the proposed new version. 1/ Though the USOE analysts checked and corrected the arithmetic on each report that they received, errors or misrepresentations which originated at the local level in the process of collecting and digesting comparability information remain undetected in their analysis, and therefore in our study as well.

II. COMPARABILITY: CONCEPTS AND MECHANICS

The Purpose of the Comparability Requirements

Title I of the Elementary and Secondary Education Act of 1965 was the first major Federal program designed to provide extra of "compensatory" education funds to 7.5 million educationally disadvantaged students. Unfortunately, however, the schools from poor neighborhoods that were eligible to receive Title I funds were the same schools that generally received a disproportionately low share of state and local funds, and LEA's began using Title I funds for the purpose of rectifying these preexisting inequities. That is, rather than spend more money on "disadvantaged" children than on "advantaged" children, the districts chose to equalize the expenditures among them. This had the effect of frustrating Congress' purpose to appropriate "compensatory" funds.

In 1970, Congress reaffirmed its intention that Title I funds should be truly supplementary by enacting comparability requirements, when it stated that:

> A local education agency may receive a grant under [Title I] for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish) that state and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under [Title I]. (Emphasis added) 2/

"Comparability" means quite simply that per-pupil expenditures and services procured from state and local revenue must generally be equal among all schools within an LEA before the application of Title I funds. The comparability requirement is essential to insure that Title I funds actually supplement state and local funds rather than supplant them.

How the Comparability Requirements Work

Preliminary instructions to state departments of education concerning the comparability requirements were issued by the Office of Education on September 18, 1970. 3/ These instructions were modified slightly by the final comparability regulations which were formally promulgated on October 14, 1971. 4/ The instructions established a timetable for submitting comparability reports, outlined the responsibilities of the states in enforcing comparability, and explained the criteria required for demonstrating comparability. The timetable was as follows:

A. May 1, 1971

LEA's had to submit comparability data for the 1969-70 school year. If the school district's report showed lack of comparability, the district had to file by May 1, 1971 a plan that would show how comparability would be achieved by June 30, 1972. 5/ Thus, school systems had two years to achieve compliance with the requirements.

B. Dec. 31, 1971	LEA's had to submit comparability reports for the 1970-71 school year, and if comparability was lacking the district was required to submit a plan to achieve comparability.
C. July 1, 1972	SEA's had to withhold Title I funds for the 1972-73 school year from LEA's, not in compliance with the comparability requirements in B. above.
D. Dec. 31, 1972	Local school districts had to submit comparability reports for the 1971-72 school year, and, if comparability was lacking the district was required to submit a plan to achieve comparability.

The comparability standard required that each Title I school be comparable to the average of all non-Title I schools in the corresponding grade level in five areas:

1. Ratio of pupils to assigned certified classroom teachers;
2. Ratio of pupils to assigned other certified instructional staff;
3. Ratio of pupils to assigned non-certified instructional staff;
4. Expenditure per pupil for instructional salaries, exclusive of amounts paid on the basis of longevity;
5. Expenditure per pupil for other instructional costs.

If a school lacked comparability in only one area, it was non-comparable. Thus, Title I schools were required to demonstrate comparability in all five areas.

The comparability standard was achieved if each Title I was not more than 5% worse off than the non-Title I schools. Thus, for criteria 1, 2, and 3 (i.e. the pupil to staff ratios) a Title I school's ratio could not exceed 105% of the average ratio for the corresponding non-Title I schools.

Comparability Compliance from July 1, 1972 to July 1, 1973

The first year during which comparability was legally enforceable yielded little change in allocation of educational resources by LEA's. Many school administrators groused about the paper work requirements; others chose not to prepare comparability reports. Still others from non-comparable school districts chose not to submit plans showing how they planned to become comparable, as was required by law. Despite these complaints, there was little evidence that the LEA's were making serious efforts to move into compliance.

The Audit Agency of Health Education and Welfare conducted an intensive comparability audit of an eleven school district sample and found all the LEA's in its sample to be non-comparable. 6 / More importantly, it found that the comparability reports submitted by these districts contained varying amounts of data that were "unreliable," "unverifiable," "invalid," "misleading," and in some cases

"inaccurate." Curiously, the HEW report, though printed in final form in early Fall 1972, was never released for public consumption.

However, a leaked copy of the HEW Audit Agency report and the Lawyers' Committee's first comparability study were issued publicly in September 1972. The reaction of USOE to these disclosures was predictable. First, a counter-charge to the press as to the inaccuracy of the reports was promptly issued along with a public statement about USOE's intentions to abide by and to enforce the law. Second, an ad hoc reshuffling was ordered for Washington staff assignments with respect to comparability -- where there was once a single Washington employee saddled with the responsibility of overseeing comparability compliance in the fifty states (and the thousands of school districts within those states), there suddenly appeared a dozen reinforcements. Third, a meeting was held with top USOE officials in late September 1972 to decide what to do about comparability enforcement. In this meeting, it was decided, among other things, that the data in the comparability reports was too old (i.e. many SEA's by that time had failed to submit to USOE comparability reports for the 1970-71 school year) and that the comparability requirements unduly restricted administrative and educational flexibility at the local level (i.e. many school administrators complained

that the three staff ratio requirements impeded experimentation with differentiated staffing patterns and that the reporting requirements for "other instructional costs" were too expensive to perform).

Despite its post-September 1972 activity, USOE chose not to order Title fund cut offs for non-comparable LEA's during fiscal year 1973.

The enforcement activity at the state level was even less encouraging. The comparability law forbade SEA's from funding non-comparable LEA's. Yet, despite the fact that thousands of districts appeared to be non-comparable on July 1, 1972, there were few, if any, states that withheld fiscal year 1973 Title I funds from non-comparable LEA's. 7/

USOE Revises its Comparability Requirements

On November 15, 1972, in a meeting in Washington, D.C. between USOE officials and state Title I coordinators, the states were informed that eligibility for Title I funds for the 1973-74 school year would be based on revised comparability requirements. 8/ The proposed revisions, which were discussed in some detail in the January meeting, were published in the Federal Register on March 21, 1973. At that time, USOE invited and subsequently received comments and criticisms on the proposed revision to the comparability regulations.

On June 28, 1973, the new requirements for demonstrating comparability were finally announced (see Appendix B). Where previously five criteria were used to measure comparability, these new regulations required the comparison of each Title I school to the average of non-Title I schools of corresponding grade span in only two areas:

1. Ratio of pupils to instructional staff members (this is an aggregate of the three staff ratios previously used to measure comparability). No Title I school may exceed 105% of the average for non-Title I schools for this ratio.

2. Expenditure per pupil for instructional salaries, exclusive of amounts paid on the basis of longevity (this is the same as ratio #4 in the old regulations). No Title I school may spend less than 95% of the average of non-Title I schools for this ratio.

Furthermore, any district in which one or more schools are non-comparable in either of these ratios must demonstrate comparability for a third ratio:

3. Expenditures per pupil for instructional supplies and materials (this is the same as ratio #5 in the old regulations). No Title I school may spend less than 95% of the average for non-Title I schools for this ratio.

The new regulations also revised the procedures for gathering and reporting comparability data. The major change here was the switch to "point-in-time" data 9/ for staff and pupil enrollment totals, as opposed to the year-long averages for these statistics required under the old regulations. The new regulations also established

a new time-table for reporting:

May 31, 1973	Pupil enrollment and staff totals are to be collected as of this data for the 1972-73 school year. Expenditure totals must be yearly figures for all staff present as of this date.
June 30, 1973	LEA's must submit a comparability report to SEA's by this date. The report is to contain the data collected on May 31, 1973. It will be used by SEA's to determine whether LEA's are eligible to receive Title I funds for FY 1974.
November 1, 1973 (and each succeeding November 1)	The U.S. Commissioner of Education will specify a date, which can be no later than November 1, on which comparability information for the schools must be collected.
December 1, 1973 (and each succeeding December 1)	Comparability reports must be submitted to the SEA's by this date. These reports must demonstrate that the LEA's have achieved comparability for the 1973-74 school year (and for each succeeding year).

These new regulations are the result of considerable discussion and compromise among the federal, state, and local officials who have been charged with the responsibilities of complying with and enforcing the comparability regulations over the last three years.

The two major changes in the regulations, the consolidation of the three staff ratios into one, and the switch from year-long

averages to point-in-time data, represent compromises on the two aspects of the regulations which had been found most burdensome by local administrators. Under the old regulations, as noted earlier, the necessity to be comparable in three different categories of personnel purportedly deprived administrators of the flexibility to use "differentiated staffing patterns" to meet special conditions. Additionally, the old regulations required that Title I schools remain comparable over the entire school year, which was difficult for schools with high pupil mobility rates. Now, with the use of point-in-time data from the beginning of each school year, comparability can be determined from data obtained during the opening weeks of the school year, without regard for the changes that may occur as the year progresses.

There were two other features in the revised comparability regulations that, taken together, should substantially enhance the prospect for gaining compliance. The first is the elimination of the requirement for a comparability plan to be submitted by non-comparable school districts. In its place, LEA's will be required to prepare a revised comparability report, demonstrating how educational resources have been reallocated so as to achieve comparability. Thus, no longer will non-comparable LEA's be allowed to submit plans to the state saying, in effect, "we will do better next

year in complying with the comparability requirements." Rather, a more sophisticated three step process is required: first, reassign instructional staff, pupils and/or instructional materials in a comparable fashion; second, count noses; and finally, submit a report documenting a newly achieved comparable status. Until they do that, under the new regulations, the LEA's can not qualify for Title I funding.

The second major change designed to improve comparability compliance is the requirement that LEA's shall maintain for each school "appropriate records" documenting allocation of the educational resources covered by the comparability regulations. These records must be filed, indexed and maintained in such a manner that they may be readily audited. Moreover, the new regulations require LEA's to make these documents available for public inspection. This is particularly significant because in fiscal year 1973, there were numerous incidents reported where Title I parents and other private citizens interested in monitoring the operation of Title I programs were refused the privilege of reviewing documents upon which LEA's had based their comparability reports. Now, public review of comparability documentation is no longer a privilege; it is a right.

III. A COMPARATIVE EXAMINATION OF THE IMPACT OF THE COMPARABILITY RULES - PAST AND PROJECTED

In preparing this report, attention was directed to the following questions:

1. Tc what extent have local education agencies succeeded in achieving comparability?
2. To what extent do the new regulations make it easier for districts to achieve comparability?
3. How adequate are the procedures by which LEA's gather and report information on comparability?
4. To what extent do LEA's submit adequate plans showing how comparability will be achieved in those instances where the reports indicate non-comparability?
5. In what ways do state and local administrators find the comparability requirements to be most burdensome?

It should be emphasized that the data used to examine some of these questions is extremely "soft", uneven, and full of holes. Its accuracy can not be assumed. In the case of at least two large districts included in the sample, independent research on comparability compliance by Lawyers' Committee staff makes it clear that in their comparability reports, these districts have badly understated the degree of non-comparability that actually exists. It should be remembered that the reported LEA data comes unchallenged and unverified.

Statistical Summary

The sample was drawn from the 317 districts whose com-

parability reports had been received and analysed as noted above by a USOE task force on comparability. All reports were based either on the 1970-71 or 1971-72 school years. The sample contained 112 school districts from 27 states. These 112 districts together contained a total of 3,132 Title I schools.

When comparability was measured under the old regulations, a total of 1,197 of these Title I schools 10/ were non-comparable with the non-Title I schools in their districts. This is an overall non-comparability rate of 38.2% (the detailed figures are displayed in Appendix A). The Lawyers' Committee's September, 1972 report, which was based on 2,914 Title I schools from 80 districts, found an overall non-comparability rate of 55.83%. 11/

When comparability was measured under the new regulations, a total of 584 Title I schools were found to lack comparability with the non-Title I schools in their districts. This is an overall non-comparability rate of 18.6%. 12/ Thus, the application of the new regulations to the data in our sample reduces the total number of non-comparable schools by 51.2%, i.e. from 1,197 schools to 584 schools.

Of the 112 districts examined, 101, or 90% of them, were non-comparable; that is, they had at least one non-comparable Title I

school under the old regulations. (It will be recalled that in the 1972 study, 79 of 80 or 98% of the districts studied had one or more non-comparable schools under the old regulations). However, under the new regulations, 82 of 112 or 73.2% of the districts examined had at least one non-comparable school.

Another comparison can be made of the percentage of districts in which more than half of the Title I schools were non-comparable. In the current study, under the old regulations, the percentage would have been 21.4% (24 out of 112 districts), but under the new regulations the percentage was 4.5% (5 out of 112 districts). 13/

Comparability Compliance

While it is important to keep in mind the severe limitations of the data used in this study, some generalizations on comparability compliance would nonetheless seem to be permissible. The drop in the overall non-comparability rate for Title I schools from 55.8% to 38.2% tends to confirm our expectation that LEA's have been improving their comparability at a moderate rate. The question whether this improvement is slow in comparison with what might be expected to result from serious efforts at compliance is too complex to be considered in a report of this kind.

In any event, four out of every ten Title I schools in the nation,

according to sample used in this study, appear to be receiving less than their fair share of state and local funds, a clear indication that school districts are a very long way from achieving equality in the allocation of educational resources among their schools. In nearly three quarters of the districts examined, a pattern of resource distribution was found which violates the standard of equity legislated by Congress under Title I of ESEA.

The Effect of the New Regulations

If the statistics used in this study are of limited value in estimating overall comparability compliance, they are of significantly greater value in evaluating the extent to which the new regulations will make compliance easier. To summarize, when both sets of regulations were applied to the same set of data, the overall number of non-comparable schools dropped by 51.2%. The overall rate of non-comparability dropped from 38.2% to 18.6%; the percentage of non-comparable districts (i.e. districts with one or more non-comparable schools) in the sample dropped from 90.0% to 73.2%, and the percentage of districts non-comparable in more than half of their Title I schools dropped from 21.4% to 4.5%.

These findings argue strongly against those who contend that the new regulations will do little to ease the burden of comparability compliance. The consolidation of the three staff rations into one ef-

fectively eliminates much of the non-comparability which is found when staff is considered in three separate categories. Furthermore, although the ratio of expenditure per pupil for instructional supplies and materials remains a comparability measure under the new regulations, it is only to be applied after non-comparability has been discovered in one of the two main ratios. 14/

All things considered, these new regulations do not water down the old ones nearly as much as they might have. (Pressure to enlarge the allowed deviation for the Title I schools from 5% to 10%, 15%, or 20% was resisted; such a change probably would have made non-comparability exceedingly rare). But the statistics given above only reflect a part of the effect of these new regulations, that of the changed ratios. It will not be clear until the Fall of 1973 whether the use of point-in-time data will produce a similar and additional reduction in non-comparability.

Plans to Achieve Comparability

Under the old regulations, non-comparability would not result in the withholding of Title I funds unless the non-comparable district failed to submit, along with Title I application and its comparability report, plans showing how the non-comparability would be eliminated by the beginning of the school year for which Title I funds were being sought.

This provision left the way open for abuse of the comparability requirements, since, in effect, non-comparability would never be punished so long as the offender promised to do better next time.

Furthermore, the use of plans (which were meant to include projected staff assignments and the like) was in itself unrealistic. These plans were essentially revised versions of the comparability reports that they accompanied. These reports were allowed to be based on data that was as much as two school years old. Given a normal amount of pupil mobility in a system, the closing down and opening up of schools, and the shifting of Title I target areas which occurs from year to year, plans based on two-year-old data become quickly obsolete, and are never followed.

The new regulations make no mention of comparability plans. If a report shows non-comparability, then that district is ineligible for Title I funds until it submits a report showing that it has already become comparable. Payments are not to be resumed until this has been established.

Of the 112 districts in this study's sample, 103 showed one or more schools to be non-comparable under the old regulations, and should therefore have included plans outlining the staff and expenditure changes that would be made. Only 14 of these districts (13.5%)

submitted plans that were regarded as adequate by the OE-HEW Task Force analysts.

LEA Reporting Procedures

One persistent problem associated with the comparability requirements of Title I has been the difficulty experienced at the local level in properly gathering and reporting the information required by the law. These difficulties derive largely from a lack of understanding of the regulations (which teachers should be counted, and in which categories, etc.), and from a lack of adequate school-by-school accounting procedures.

The December, 1972 OE-HEW Task Force on Comparability made a determination, for each reporting district, as to whether or not the comparability report

1. submitted incomplete data;
2. made significant computational errors;
3. failed to use average daily membership for pupil totals (it was common for districts to use point-in-time enrollment figures instead of less-easily-determined year-long averages of enrollment required in the regulations);
4. failed to use all five of the required ratios;
5. failed to compare schools within equivalent-grade-span groupings (some districts compare K-4 Title I schools to the average of all K-4 non-Title I schools; K-5 Title I schools to the non-Title I average for K-5, etc. The old regulations imply, and the new regulations state explicitly, that schools are to be grouped in no more than three categories: elementary, junior high and senior high.

The Task Force found that of the 317 districts whose reports they examined, 18% submitted incomplete data; 7% made significant computational errors; 9% failed to use average daily membership figures; 15% failed to use all five of the required ratios; and 13% failed to comply with the requirement on grade-span groupings.

It is hoped that in the next two reporting periods, July 1, 1973 and December 1, 1973, this situation will improve considerably. For comparability reports due on December 1, 1973, a standard USOE reporting form will be required of all LEA's which should reduce the number of delinquent LEA's in all of these five areas. 15/ Furthermore, the use of the point-in-time data, and the consolidation of the staff ratios should facilitate the job of data-collecting. The most important step that school districts must make in order to ensure swift and accurate comparability reporting is to establish a reliable school-by-school accounting system for those resources by which comparability is measured. The new regulations make this school-by-school record-keeping mandatory.

Problems Encountered by LEA's

The comparability requirements continue to present many problems to the state and local education officials charged with the responsibilities for complying with and enforcing these requirements. These problems have been expressed in varying degrees of eloquence and passion in written remarks that school administrators have appended to comparability reports submitted to USOE.

Many of these local administrators remain fundamentally opposed to comparability on philosophical grounds:

> "[T]he Los Angeles Unified School District believes that the need to demonstrate comparability seriously inhibits the flexibility which the District has attempted to provide to local schools...flexibility will necessarily result in some schools being indicated as non-comparable simply because the school had determined that resources should be allocated in a manner which may not conform to the enrollment of the average of the District....the data produced through comparability studies is misleading to the state and to the community....."
>
> "Nebraska school districts object to comparability data being a part of public information. The implication possibilities are a threat to the local educational agencies."
>
> "Eliminate criteria relating to per-pupil expenditures for salaries and instructional materials. The variables involved in these two items far outweight the significance in judging the equality of services."

There is also some feeling among school administrators that the comparability requirements have become a tail that is attempting to wag the dog, in as much as a large amount of staff time is necessary to demonstrate compliance so that a relatively small amount of money (the share supplied by Title I) will continue to flow into the district. This objection is probably more an indictment of the adequacy of school districts' cost accounting systems than the comparability requirements.

A number of practical problems, pointed out by the school

administrators in their written notes to USOE, seem to be widespread:

> "For local districts, master contracts between school boards and teacher organizations make it extremely difficult to shift teachers between buildings for purposes of getting comparable instructional salary expenditures on a per-pupil basis."
>
> "Several LEA's were unable to utilize staff transfers as a means of attaining comparability (staff/pupil ratios and expenses per pupil for instructional salaries) because of union agreements and contracts."
>
> "In LEA's where several other Federal programs provide personnel and equipment to Title I target schools, the availability of classrooms and space often becomes a limiting factor as to how many teachers, teacher aides, etc., can be added from state and local funds to bring about comparability."

One common complaint voiced by administrators prior to the promulgation of the revised regulations was that some allowance should be made for school size in measuring comparability. The argument was made that, because of economy of scale reasons, elementary schools with, say, 50 pupils should not have to be comparable to an elementary school with, say, 1500 pupils. The new regulations have made an allowance for this by specifying that schools with a pupil enrollment of less than 100 should be grouped separately for the purposes of comparability comparison. 16/

Most complaints relate not to the difficulties of becoming comparable, but to the difficulties of reporting on comparability.

LEA's are generally ill-equipped to handle the task of gathering school-by-school figures, prorating the time of floating personnel, excluding longevity pay from salary figures, and the like. In much the same way, SEA's have found themselves unprepared for the job of auditing comparability compliance in the many districts in their state. Comparability is putting pressure on school districts to develop systems of financial accounting more suited than those currently used for decision-making about the best use of educational funds.

IV. THE FUTURE OF COMPARABILITY

More than three years have passed since the original comparability legislation was passed, and more than one year has passed since the regulations, issued pursuant to that legislation, became legally enforceable. During that time, it was apparent that LEA's across the country moved slowly, and in some cases not at all, towards compliance with these requirements. Furthermore, it also was apparent that SEA's and USOE exhibited little inclination to enforce compliance. Clearly, USOE was responsible for much confusion and laxity through its repeated changes in policy over the three year period. As a result of this, many state and local education agencies were held in a perpetual state of uncertainty regarding the substance and procedure of comparability reporting. Will this trend continue, or will the new regulations usher in a new attitude toward enforcement?

Much of the lenience that has been seen to date resulted from the conviction that the regulations were too stiff, and too inflexible; state and federal education officials have been quick to grant special dispensations on the basis of these convictions. Now since the new regulations presumably have removed these "undue" burdens, it is to be expected that enforcement efforts will be vigorous and thorough.

Without such efforts, it seems certain that the present picture of nationwide non-comparability will persist and such non-comparability will continue to frustrate the fundamental goals of compensatory education. If this picture is to change, pressure must be applied by USOE, SEA's and by informed local organizations who, for the first time, must consider resource allocation to be an issue in which they have a legitimate interest.

A recent development suggests that the old "hands off" approach of federal education officials toward the enforcement of comparability may have changed dramatically. The event occurred on July 2, 1973 when USOE officials were asked to approve a Title I grant of over $20 million for the Philadelphia schools.

The funds in question were for fiscal year 1973, and under normal circumstances, they would have been awarded by the state in the Fall of 1972 to Philadelphia for the 1972-73 school year. However, in September, 1972, a suit had been brought against the Pennsylvania SEA charging, among other things, that the Philadelphia LEA was in violation of the comparability regulations. Evidence submitted in the case indicated that over 80% of Philadelphia's Title I schools were non-comparable. Pennsylvania's SEA officials responded to the suit by freezing any funding for Philadelphia's Title I application

for fiscal year 1973. In the interim, Philadelphia school officials borrowed sufficient funds to underwrite the cost of their compensatory education program with the expectation that they would ultimately be reimbursed with federal funds, once the SEA approved and funded its Title I application. However, fiscal year 1973 ended with the parties at an impasse: the court had not ruled on the case; Philadelphia had not made any substantial reallocations of its educational resources; and the state had not funded the Philadelphia Title I application. The stage was set for USOE.

On July 2, 1973, Pennsylvania education officials traveled to Washington to seek from USOE a special dispensation to award Philadelphia its 1973 grant allocation. The case for Philadelphia was strong - it was and is in the midst of a severe fiscal crunch. However, USOE officials uncharacteristically toed the line. They refused to authorize the grant unless and until Philadelphia came into compliance.

Whether the new enforcement posture struck by USOE will be maintained depends on many things. Certainly, there will be enormous political pressure brought to bear on USOE to change its position and fund the Philadelphia program. Additionally, it seems almost as certain that pressure will be brought in Congress

to eliminate the comparability requirements, if not Title I all together. However, if USOE maintains its new posture, it seems equally clear that an important precedent has been established that should serve as an important deterrent to other LEA's or SEA's that might otherwise have ignored the federal mandate for comparability.

FOOTNOTES

1 / Shortly after the publication of the Lawyers' Committee's first report on comparability compliance in September, 1972, a joint USOE-HEW Task Force on Comparability was organized in the Division of Compensatory Education, a part of the Bureau of Elementary and Secondary Education in USOE. The task force consisted of fifteen data analysts, five from the HEW Audit Agency, and ten from USOE. This team analysed all of the comparability reports (a total of 317) which had been sent to USOE in response to a request for these reports from the 800 school districts which were selected that year from a stratified sample of public school districts. The analysis, conducted during November and December 1972, was done under both sets of regulations, and was directed both to the substance of these reports, as well as to the adequacy of the procedures by which they had been prepared. The results were made available to the Lawyers' Committee in the form of state summaries showing for each reporting district all of the information found in the table in Appendix A.

2 / 20 U.S.C. 241e (a) (3) (c).

3 / Memorandum to Chief State School Officers: Advisory Statement on Development of Policy on Comparability, September 18, 1970.

4 / 36 Fed Reg 199, pp. 20016-20017, October 14, 1971.

5 / According to the regulations, the plan required of non-comparable LEA's is one that provides.... "information with respect to projected budgets, staff assignments, and other pertinent matters showing that comparability will be achieved...." 45 CFR§ 116.26 (d).

6 / The HEW audits were conducted between September 1971 and April 1972 on the following eleven school districts: Baltimore, Chicago, Hartford, Kansas City (Mo.), Louisville, Miami, New York, Oakland, St. Louis, San Diege, Yuba City (Calif.). The individual audits were compiled by the HEW Audit Agency into a summary report. The principal difference between the Lawyers' Committee's September 1971 study and the HEW audits is that the former assumes, for the purposes of argument, that the comparability data were accurate, while the latter did not.

7 / The Lawyers' Committee was informed that thirteen states had held up funding more than one hundred LEA's because of comparability violations. However, a few spot checks by the Lawyers' Committee's staff to randomly selected LEA's, that were not supposed to be receiving Title I funds, revealed that funds were in fact flowing into these districts.

8 / The meeting was held at the Offices of the National Advisory Council for the Education of Disadvantaged Children.

9 / "Point-in-time" data is data collected as of a specific day, rather than an average over a period of time, as was required under the old regulations.

10 / Five districts account for 450 of the non-comparable schools: Chicago, Detroit, Boston, New Orleans, and Dade Co., Florida. When these districts are omitted from the count, the overall non-comparability rate drops to 29.0%.

11 / The statistical summary from the Lawyers' Committee's September 1972 report is attached as Appendix C.

12 / When the five districts noted above are omitted from the count, this overall non-comparability rate drops to 15.4%

13/ In the 1972 study, this percentage was 47.5%.

14/ This second expenditure ratio may never again be taken seriously by education officials. The OE-HEW Task Force left it out altogether when they analysed comparability reports under the new regulations.

15/ For the July 1, 1973 reporting period, the standardized USOE report form will only be optional, as the required approval of the form by the Office of Management and Budget has not yet been granted.

16/ USOE, however, seems ambivalent about the new classification of over and under 100 enrollment. In a preface to the June 28, 1973 regulations, it stated:

> Objections to the comparison of schools with widely varying enrollments since smaller schools normally require smaller staff ratios and, hence, are likely to have higher expenditures per pupil. It has been pointed out in this connection that in some cases, state requirements dictate different staff-pupil ratios depending on size of the school. The present regulation contains a provision for the separate comparison of schools enrolling 100 students or less. However, those who commented stated that this exception does not go far enough. This problem is presently under consideration. No change has been made at this time; it is believed that before a new rule is published further study and additional data are required as to the effect of the principle of economies of scale and of wide disparities in school size on staffing and expenditure patterns.

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Appendix A - June 1973 Study

DISTRICT NAME	Number of Title I Schools	OLD REGULATIONS							NEW REGULATIONS				
		Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per Other Certified Instructional Staff	Criteria 3: Number of Pupils per Non-certified Instructional Staff	Criteria 4: Expenditures Per Pupil on Instructional Salaries (not including Longevity Pay)	Criteria 5: Expenditures Per Pupil on Other Instructional Costs	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Instructional Staff	Criteria 2: Expenditures Per Pupil on Instructional Salaries (not including Longevity Pay)	Submitted Adequate Plan to Correct Non-comparability
ARIZONA													
Tucson	14	5	36%	0	0	0	3	3	3	21%	0	3	
CALIFORNIA													
Fresno	11	1	9%	0	0	1	0	0	2	18%	2	0	
Los Angeles	72	4	6%	0	0	4	0	0	0	0	0	0	
Oakland	16	8	50%	0	0	0	2	7	3	19%	1	3	
San Diego	27	9	33%	2	0	0	0	7	7	26%	3	7	
San Francisco	41	7	17%	4	2	0	6	0	6	15%	4	6	
COLORADO													
Colorado Springs	9	1	11%	0	0	1	0	0	0	0	0	0	No
Denver	27	8	30%	0	0	4	0	4	1	4%	1	0	No
Jefferson	9	7	78%	0	0	0	1	6	1	11%	0	1	No
Pueblo City	21	3	14%	0	0	3	0	0	3	14%	3	0	No
CONNECTICUT													
Bridgeport	12	0	0	0	0	0	0	0	0	0	0	0	NA
Hartford	26	13	50%	6	0	5	6	9	6	23%	5	6	No
New Haven	18	0	0	0	0	0	0	0	0	0	0	0	NA
FLORIDA													
Alachua Co.	19	2	11%	0	0	0	0	2	0	0	0	0	No
Brevard Co.	22	8	36%	1	0	6	2	4	5	23%	5	2	No
Broward Co.	52	16	31%	7	-2	2	2	15	7	13%	7	2	No
Clay Co.	10	2	20%	1	2	0	1	0	3	30%	3	1	Yes
Dade Co.	76	55	72%	5	4	27	26	29	26	34%	6	26	No
Duval Co.	62	17	27%	6	10	0	12	0	14	23%	9	12	No
Hillsborough Co.	97	2	2%	2	0	0	1	0	2	2%	2	1	No

NA=Not applicable

DISTRICT NAME	Number of Title I Schools	OLD REGULATIONS							NEW REGULATIONS				
		Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per Other Certified Instructional Staff	Criteria 3: Number of Pupils per Non-certified Instructional Staff	Criteria 4: Expenditures per Pupil on Instructional Salaries (not including Longevity Pay)	Criteria 5: Expenditures per Pupil on Other Instructional Costs	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Instructional Staff	Criteria 2: Expenditures per Pupil on Instructional Salaries (not including Longevity Pay)	Submitted Addenda Plan to Correct non-comparability
Lee Co.	21	20	95%	5	5	11	7	-	13	62%	12	7	No
Okaloosa Co.	19	8	42%	2	1	6	4	2	7	37%	7	4	No
Orange Co.	38	16	42%	4	1	0	3	15	4	11%	4	3	No
Pinellas Co.	16	1	6%	0	0	1	1	0	5	31%	4	1	No
GEORGIA													
Atlanta City	45	1	2%	1	0	0	0	0	0	0	0	0	No
Bibb Co.	21	6	30%	6	0	0	6	0	9	45%	9	8	Yes
Chatham	20	2	10%	0	1	0	0	1	0	0	0	0	No
DeKalb Co.	29	0	0	0	0	0	0	0	0	0	0	0	NA
Houston	14	0	0	0	0	0	0	0	0	0	0	0	NA
Muscogee	31	1	3%	0	0	0	1	0	0	0	0	0	Yes
Richmond	30	0	0	0	0	0	0	0	0	0	0	0	NA
Walker	15	0	0	0	0	0	0	0	0	0	0	0	NA
ILLINOIS													
Chicago	193	193	100%	28	15	19	38	193	40	21%	31	38	No
Rockford	16	5	31%	0	0	0	2	4	-	-	-	-	No
E. St. Louis	28	12	43%	5	1	0	5	8	5	18%	2	5	No
Peoria	15	0	0	0	0	0	0	0	0	0	0	0	0
INDIANA													
Gary	14	1	7%	1	0	0	1	0	1	7%	1	1	Yes
Indianapolis	22	2	9%	1	0	0	2	0	2	9%	0	2	Yes
Richmond	13	5	38%	1	0	1	3	1	4	31%	3	3	No
IOWA													
Des Moines Ind.	16	0	0	0	0	0	0	0	0	0	0	0	NA
Davenport	11	3	27%	0	0	0	0	3	1	9%	1	0	No

DISTRICT NAME	Number of Title I Schools	OLD REGULATIONS							NEW REGULATIONS				
		Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per Other Certified Instructional Staff	Criteria 3: Number of Pupils per Non-certified Instructional Staff	Criteria 4: Expenditures per Pupil on Instructional Salaries (not including Longevity Pay)	Criteria 5: Expenditures per Pupil on Other Instructional Costs	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Instructional Staff	Criteria 2: Expenditures per Pupil on Instructional Salaries (not including Longevity Pay)	Submitted Adequate Plan to Correct non-comparability
KANSAS													
Kansas City	22	10	45%	3	1	1	3	6	5	23%	4	3	No
Topeka	28	8	29%	0	0	0	1	7	2	7%	1	1	No
Wichita	98	26	26%	22	22	22	19	26	24	24%	24	19	No
KENTUCKY													
Louisville	36	16	44%	4	0	0	2	13	2	6%	1	2	No
LOUISIANA													
Caddo Parish	28	11	39%	2	3	0	4	6	4	14%	3	4	No
Calcasieu Parish	27	6	22%	5	1	0	3	0	6	22%	6	3	No
E. Baton Rouge Parish	43	12	28%	5	0	0	1	8	3	7%	3	1	No
Jefferson Davis Parish	20	6	30%	5	0	0	1	1	4	20%	3	1	No
Jefferson Parish	49	23	47%	5	1	1	8	15	9	18%	1	8	No
Lafayette Parish	25	23	92%	7	1	2	9	20	9	36%	7	9	No
Orleans Parish	71	56	79%	18	25	1	33	25	50	70%	32	33	No
St. Landry Parish	13	2	15%	0	1	1	2	0	3	23%	2	2	No
St. Mary Parish	16	6	38%	1	3	0	1	2	1	6%	0	1	No
St. Tammany Parish	17	4	24%	1	0	0	2	1	3	18%	1	2	No
MARYLAND													
Allegany Co.	14	13	93%	2	0	4	1	10	3	21%	3	1	No
Anne Arundel Co.	21	8	38%	4	0	0	3	2	5	24%	3	3	No
Baltimore City	89	46	52%	27	5	7	23	14	26	29%	24	23	No
Baltimore Co.	17	15	88%	5	2	2	5	12	5	29%	3	5	No
Montgomery Co.	14	0	0	0	0	0	0	0	0	0	0	0	NA
Prince George's Co.	25	5	20%	4	0	1	4	0	4	16%	4	4	No

DISTRICT NAME	Number of Title I Schools	OLD REGULATIONS							NEW REGULATIONS				
		Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per Certified Instructional Staff	Criteria 2: Number of Pupils per non-certified Instructional Staff	Criteria 3: Expenditures per Pupil on Instructional Salaries (not including Longevity Pay)	Criteria 3: Expenditures per Pupil on other Instructional Costs	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Instructional Staff	Criteria 2: Expenditures per Pupil on Instructional Salaries (not including Longevity Pay)	Submitted Adequate Plan to Correct non-comparability
MASSACHUSETTS													
Boston	84	65	77%	20	0	0	14	64	25	30%	24	14	No
Cambridge	12	4	33%	2	0	2	3	0	3	25%	2	3	Yes
Fall River	14	1	7%	1	0	0	1	0	1	7%	1	1	Yes
Lawrence	10	5	50%	4	0	0	3	2	4	40%	4	3	No
Lynn	15	3	20%	2	0	0	1	1	6	40%	6	1	No
New Bedford	17	15	88%	2	0	0	3	15	3	18%	2	3	
Springfield	19	0	0	0	0	0	0	0	0	0	0	0	NA
Worcester	20	17	85%	10	0	0	12	12	14	70%	9	12	No
MICHIGAN													
Detroit City	131	81	62%	41	6	12	31	34	116	35%	27	31	No
Flint	21	6	29%	1	0	3	0	5	0	0	0	0	Yes
Grand Rapids	27	4	15%	1	0	1	1	3	3	11%	1	2	No
Kalamazoo City	12	6	50%	2	0	0	1	5	1	8%	1	1	No
Lansing	16	5	31%	4	0	1	4	1	7	44%	5	4	Yes
Pontiac	10	5	50%	3	0	1	3	0	4	40%	2	4	No
Saginaw	12	5	42%	1	0	0	5	0	5	42%	1	5	No
Waterford	15	4	27%	1	0	0	1	2	1	7%	1	1	No
MISSISSIPPI													
Gulfport	12	6	50%	2	0	0	1	6	2	17%	2	2	No
MISSOURI													
Kansas City	20	2	10%	2	0	0	0	0	4	20%	4	0	No
NEBRASKA													
Lincoln	22	13	59%	3	1	5	2	6	4	15%	2	4	No
Omaha	19	2	11%	0	0	0	0	2	0	0	0	0	No

DISTRICT NAME	Number of Title I Schools	OLD REGULATIONS							NEW REGULATIONS				
		Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per Other Certified Instructional Staff	Criteria 3: Number of Pupils per Non-certified Instructional Staff	Criteria 4: Expenditures per Pupil on Instruction (not including Salaries for Longevity Pay)	Criteria 5: Expenditures per Pupil on Other Instructional Costs	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Instructional Staff	Criteria 2: Expenditures per Pupil on Instruction (not including Salaries for Longevity Pay)	Submitted Adequate Plan to Correct non-comparability
NEVADA													
Clark Co.	11	1	9%	1	0	0	0	0	0	0	0	0	No
NEW JERSEY													
Newark	46	20	43%	3	1	14	7	3	8	17%	3	7	No
Paterson	19	6	32%	2	0	0	0	5	0	0	0	0	No
Trenton	13	3	23%	0	0	0	0	3	0	0	0	0	No
Vineland City	11	0	0	0	0	0	0	0	0	0	0	0	NA
NEW MEXICO													
Albuquerque	22	4	18%	1	0	0	0	3	0	0	0	0	No
Las Cruces	15	4	27%	1	2	0	2	2	2	13%	0	2	No
Santa Fe.	10	4	40%	2	0	0	3	2	3	30%	2	3	No
OHIO													
Akron	29	3	10%	1	0	2	1	0	2	7%	2	1	No
Canton	14	1	7%	1	0	0	0	0	0	0	0	0	No
Cincinnati	20	3	15%	0	0	1	2	0	3	15%	1	2	Yes
Cleveland	79	23	29%	22	1	0	11	2	11	14%	11	3	No
Columbus	42	3	7%	1	0	0	0	2	0	0	0	0	No
Dayton	25	3	12%	1	0	0	1	1	1	4%	0	1	No
Chris Valley Local	13	4	31%	2	0	3	3	0	4	31%	3	3	No
Youngstown	24	2	8%	1	1	0	1	0	1	4%	1	1	Yes
Yound City	10	7	70%	1	0	0	6	1	6	60%	1	6	Yes
PENNSYLVANIA													
Keystone Central	13	1	8%	0	0	1	0	0	0	0	0	0	No
Scranton	13	1	8%	0	0	0	1	0	0	0	0	0	No
Altoona Area	14	10	71%	3	10	0	2	3	4	29%	4	7	No

DISTRICT NAME	Number of Title I Schools	OLD REGULATIONS								NEW REGULATIONS				
		Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per Other Certified Instructional Staff	Criteria 3: Number of Pupils per Non-certified Instructional Staff	Criteria 4: Expenditures per Pupil on Instructional Salaries (not including Longevity Pay)	Criteria 5: Expenditures per Pupil on Other Instructional Costs	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Instructional Staff	Criteria 2: Expenditures per Pupil on Instructional Salaries (not including Longevity Pay)	Submitted Adequate Plan to Correct non-comparability
Armstrong	24	9	38%	5	1	0	7	4	7	29%	4	7	No
RHODE ISLAND													
Pawtucket	10	2	20%	1	0	1	2	0	2	20%	1	2	No
Providence	19	16	84%	9	1	5	10	11	11	58%	10	10	No
VIRGINIA													
Chesterfield Co.	16	2	13%	2	0	0	0	0	2	13%	2	0	No
Fairfax Co.	20	3	15%	2	0	0	0	2	1	5%	0	1	No
Newport News	21	10	48%	7	0	0	4	4	5	24%	2	4	No
Richmond	48	39	81%	29	1	12	6	7	19	40%	14	14	No
WISCONSIN													
Kenosha	12	4	33%	0	0	4	0	0	0	0	0	0	No
Milwaukee	35	2	6%	0	0	0	0	2	0	0	0	0	Yes
Racine	12	6	50%	0	0	0	0	6	0	0	0	0	Yes
UTAH													
Davis Co.	24	16	67%	7	0	0	7	13	8	33%	7	7	No
Totals	3,132	1,177	38.2%	415	134	201	422	715	584	18.6%	413	435	
totals as %		35.2%		13%	4%	6%	14%	23%	18.6%		13%	14%	

APPENDIX B - JUNE 28, 1973 REVISED COMPARABILITY REGULATIONS

federal register

THURSDAY, JUNE 28, 1973
WASHINGTON, D.C.
Volume 38 ■ Number 124

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

FINANCIAL ASSISTANCE TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

Comparability of Services

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 116—FINANCIAL ASSISTANCE TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

Miscellaneous Amendments

Notice of proposed rulemaking was published in the FEDERAL REGISTER on March 21, 1973, (38 FR 7438), setting forth certain requirements and provisions for determining the comparability of services provided in project areas with State and local funds by local educational agencies receiving financial assistance under Title I of the Elementary and Secondary Education Act. Comments both formal and informal that were received with respect to the proposed rules have been reviewed and, in light of those comments and further study of the probable impact of the proposed rules, certain changes have been made as indicated below.

SUMMARY OF CHANGES

1. The substance of the second sentence in paragraph (c)(3) of the notice of proposed rulemaking has been placed in a new subparagraph (7) under paragraph (b). The purpose of this change is to put all of the data requirements in paragraph (b). Instructional equipment has been eliminated from the items on which cost data would have to be secured in the event that the local educational agency fails to meet the criteria with respect to its instructional staff ratios and its annual expenditures per child for instructional salaries. Expenditures for instructional equipment under most school accounting systems are considered capital expenditure or replacement expenditures and not instructional expenditures. Moreover, such equipment is available for use over a substantial period of time and, therefore, cannot be appropriately aggregated with expenditures over a one or two year period for materials and supplies. The new subparagraph has also been reworded so that the data on expenditures for materials and supplies, including textbooks and library resources, will include such expenditures not only for the current year but also expenditures for materials and supplies on hand that were purchased in preceding years.

2. In the last part of paragraph (b) the date for reports required for fiscal 1973 has been changed from a date not later than April 15, as specified by the Commissioner, to a date no later than May 31, as specified by the State educational agency. The date by which the local educational agency shall report to the State educational agency has been changed to June 30 for fiscal 1973 data. The dates for fiscal 1974 have not been changed and will, as previously indicated, be specified by the Commissioner.

3. The notice of proposed rulemaking did not include a standard for determining the comparability of local educational agencies with respect to their expenditures for textbooks, library resources and other instructional materials and supplies. Consequently, it was necessary to insert a standard which now appears in paragraph (c)(3). That paragraph now requires that for those local educational agencies that are required to report such expenditures, these expenditures per child as specified in paragraph (b)(7), shall be not less than 95 percent of such expenditure per child in all other public schools in the applicant's district.

4. Further consideration was given to the need for actually determining whether or not certain local educational agencies are maintaining comparability during period when migratory children of migratory agricultural workers are residing in the districts of those agencies. As a result, a new paragraph (d) has been inserted authorizing the Commissioner to establish dates for special reports for those local educational agencies in whose school districts substantial numbers of migratory children of migratory agricultural workers temporarily reside. The dates selected will be within periods when such school districts experience their peak enrollments of migratory children.

5. A modification has been made to paragraph (f) concerning the grouping of schools by corresponding grade levels which permits schools serving nine or more grade levels above kindergarten to be considered as a separate group apart from the applicant agency's elementary, intermediate or junior high, and high schools for the purpose of determining comparability.

6. A provision has been added in new paragraph (g) excluding special education classes from comparability determinations. However, local educational agencies will be required to provide services with State and local funds to handicapped children in project areas that are comparable to the services provided for such children in attendance areas not designated for projects.

7. A provision has been added which indicates that documents and worksheets upon which a local educational agency bases its comparability report will be available to the public in accordance with current public information regulations contained in 45 CFR 116.17(n).

SUMMARY OF COMMENTS

A review of the comments received on the notice of proposed rule making indicated:

1. Considerable support for and few objections to the single ratio of children to instructional staff.

2. A number of objections to the provisions requiring the collection of data and determinations of comparability on expenditures for instructional materials and supplies and instructional equipment with particular objections to the inclusion of instructional equipment.

In response to these objections changes have been made as described above in paragraph 1, under "Summary of Changes". The requirement was not eliminated because such action was considered to be contrary to congressional intent.

3. Considerable support for the use of current data.

4. Numerous requests for the exclusion of data based on enrollment, staffing and expenditures for special education classes.

These comments emphasized that special education classes by their nature require smaller pupil-staff ratios, and, if included in the over-all comparability determination, would unfairly distort the comparisons between schools with such classes and those without. In response to these comments a new provision has been added as described above in paragraph 6 under "Summary of Changes".

5. Requests for another grouping by grade levels for schools containing both elementary and secondary grades.

The basis for this request was the fact that such schools, combining as they do both the lower grades and the higher grades (where larger per pupil expenditures are required than in the lower grades), would be more fairly compared to each other within a separate category. A provision effectuating this proposed change has been added in paragraph (f).

6. Objections to the comparison of schools with widely varying enrollments since smaller schools normally require smaller staff ratios and, hence, are likely to have higher expenditures per pupil.

It has been pointed out in this connection that in some cases State requirements dictate different staff-pupil ratios depending on school size. The present regulation contains a provision for the separate comparison of schools enrolling 100 students or less. However, those who commented stated that this exception does not go far enough. This problem is presently under consideration. No change has been made at this time; it is believed that before a new rule is published further study and additional data are required as to the effect of the principle of economies of scale and of wide disparities in school size on staffing and expenditure patterns.

7. Objections to the requirement for reporting payments for length of service (longevity) since such payments are not included in determining comparability.

The regulation retains the requirement that the amounts of instructional personnel salaries attributed to longevity be reported. Such data are needed in order that the Commissioner may assess the impact of the exclusion of payments for longevity on comparability determinations.

8. Requests that the State educational agency rather than the Commissioner set the dates for the collection of data and that local educational agencies be permitted to present data for an entire reporting period including the specified date rather than just for that date.

The regulation retains the requirement that beginning with fiscal year 1974 the Commissioner rather than the State educational agencies will set dates for the collection of data. This provision will enable the Commissioner to coordinate the reporting cycles for comparability reports with the reporting cycles for other data pertinent to education to be secured by the Office of Education or the Department. An appropriate change with respect to the presentation of data for a

regular school reporting period is included in paragraph (b).

9. Requests that the 5 percent variance for each of the criteria be increased and that a full-time equivalent clause similar to the one in the previous regulations be included.

The 5 percent variance has been retained because such variance is in keeping with recent court decisions involving equity of resource allocation among schools, and is intended to strike a reasonable balance in establishing a standard for the administration of the comparability requirement. The full-time equivalent clause contained in the previous regulation is no longer considered necessary now that the three separate criteria for instructional staff have been replaced by a single criterion, namely, the ratio of children enrolled to all instructional staff.

10. Objections to application of the regulations to fiscal year 1973; corresponding recommendations that the deadlines for data collection and reporting be postponed until fiscal year 1974.

Section 141(a)(3)(C) of the governing statute (20 U.S.C. 241(e)(a)(3)(C)) requires the submission of comparability reports on or before July 1 of each year and precludes approval of an application for a Title I project in the absence of a satisfactory comparability report.

11. Several objections to the use of point-in-time data and corresponding recommendations for the continued use of historical data. The requirement that data be secured as of a point-in-time in the current year has been retained because it is considered to be more accurate and up-to-date. When the reporting cycle is fully operative such data will be necessary to insure that the required corrective action is taken in the current year.

12. Recommendations that State and local compensatory funds be excluded from comparability determinations.

The adoption of such recommendations is precluded by the governing statute which requires a determination that State and local funds are being used to provide services in project areas that are comparable to those in non-project areas and makes no exception concerning State and local funds for compensatory education.

13. Recommendations that, instead of comparing staff and expenditure ratios for each Title I project school with the ratios for all non-Title I schools, the averages for all Title I schools as a group should be compared with the averages for non-Title I schools. This suggestion was rejected because its adoption would permit substantial understaffing and underfunding of individual Title I schools.

After consideration of the above summarized comments, Part 116 of Title 45 of the Code of Federal Regulations is hereby amended as set forth below.

Effective date. Since these regulations were published in the FEDERAL REGISTER on March 21, 1973, in substantially the form set forth below as a notice of proposed rulemaking, these regulations shall be effective June 28, 1973.

(Catalogue of Federal Domestic Assistance Program No. 13.428, Educationally Deprived Children—Local Educational Agencies (Title I, ESEA))

Dated: June 11, 1973.

JOHN OTTINA,
Acting U.S. Commissioner of Education.

Approved: June 21, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Section 116.26 is revised to read as follows:

§ 116.26 Comparability of services.

(a) A State educational agency shall not approve an application of a local educational agency for a grant under section 141(a) of the Act, or make payments of title I funds under a previously approved application of such agency, unless that local educational agency has demonstrated, in accordance with paragraph (c) of this section, that services provided with State and local funds in title I project areas are at least comparable to the services being provided with State and local funds in schools serving attendance areas not designated as title I project areas. Such approval shall not be given unless the local educational agency also provides the assurances and the additional information required by paragraph (e) of this section with respect to the maintenance of comparability. For the purpose of this section, State and local funds include those funds used in the determination of fiscal effort in accordance with § 116.45.

(b) The State educational agency shall require each local educational agency, except as provided in paragraph (i) of this section, to submit a report in such form as the Commissioner will prescribe, containing the information required by the State educational agency to make the determinations specified in paragraph (c) of this section. Such report shall include the following data for each public school, unless such school is exempted by paragraph (h) of this section, serving a project area and, on a combined basis, for all other schools of corresponding grade levels (as grouped in accordance with paragraph (e) of this section):

(1) The number of children enrolled,

(2) The full-time equivalent number of certified and noncertified instructional staff members, who are paid with State or local funds regularly assigned to such public school or schools,

(3) The total portion of salaries for such instructional staff members which is based on length of service (longevity),

(4) The total amount of State and local funds being expended on an annual basis for salaries for such instructional staff members less the amount of such salaries based on length of service (longevity),

(5) The number of enrolled children as reported under subparagraph (1) of this paragraph per instructional staff member as reported under subparagraph (2) of this paragraph,

(6) The amount expended per enrolled child for salaries for instructional staff as reported under paragraph (b)(4) of this section, and

(7) In the case of a local educational agency which fails to meet the requirements of paragraph (c)(1) or (2) of this section, a report showing the amount expended and to be expended in total and per child for textbooks, library resources, and other instructional materials and supplies, as defined in § 117.1(i) of this chapter, (including the amount expended in previous years for all such items) that have been or will be made available for use in the current fiscal year.

The data required by this paragraph shall be as of a date not later than May 31 for fiscal year 1973, as specified by the State educational agency and not later than November 1 for fiscal year 1974 and succeeding fiscal years, as specified by the Commissioner. The local educational agency with the approval of the State educational agency and the Commissioner may, however, submit data based on averages for a definite regular school reporting period which includes the date specified by the State educational agency or the Commissioner as the case may be. The report required by this paragraph shall be filed with the State educational agency not later than June 30 of fiscal year 1973 and not later than December 1 of each succeeding fiscal year. All data reported to the State educational agency in accordance with this paragraph shall be as of the same date. The term "instructional staff members" as used in this section means staff members who render direct and personal services which are in the nature of teaching or the improvement of the teaching-learning situation. The term includes teachers, principals, consultants, or supervisors of instruction, librarians, and guidance and psychological personnel; it also includes aides or other paraprofessional personnel employed to assist such instructional staff members in providing such services.

(c) The services being provided by the local educational agency with State and local funds in a title I project area shall be deemed to be comparable to the services being provided with such funds in areas not being served under said title I upon the determination by the State educational agency that for schools serving corresponding grade levels:

(1) The number of children enrolled per instructional staff member, reported in accordance with paragraph (b)(5) of this section, for each public school serving a title I project area is not more than 105 percent of the average number of children per instructional staff member in all other public schools in the applicant's district;

(2) The annual expenditure per child, determined in accordance with paragraph (b)(6) of this section, in each public school serving a title I project area is not less than 95 percent of such expenditure per child in all other public schools in the applicant's district;

(3) For those local educational agencies required to report under paragraph (b)(7) of this section, the expenditure per child for textbooks, library resources, and other instructional materials and

supplies, determined in accordance with that paragraph, in each public school serving a title I project area is not less than 95 percent of such expenditure per child in all other public schools in the applicant's district.

If any school serving a title I project area is determined not to be comparable under this paragraph, no further payments of title I funds shall be made to the local educational agency until that agency has taken the action required by paragraph (k)(1) of this section to overcome such lack of comparability.

(d) For the purpose of this section the Commissioner may designate those local educational agencies which enroll substantial numbers of migratory children of migratory agricultural workers from which a State educational agency shall secure special reports. Each such report shall be in the form prescribed in paragraph (b) and the data provided shall be as of the date prescribed by the Commissioner. Such date will be selected on the basis of the best available information indicating when the highest concentration of migratory children of migratory agricultural workers in the local educational agency's district is most likely to occur. The Commissioner will also designate the date such a special report shall be submitted to the State educational agency and by that agency to him (which date shall be no earlier than sixty days after publication of this rule in the FEDERAL REGISTER in the case of the fiscal year ending June 30, 1974). The State educational agency shall determine on the basis of such special report whether the local educational agency is providing comparable services in project areas in accordance with paragraph (c) and shall take such action as may be required by that paragraph.

(e) On or before July 1, 1973, and July 1 of each succeeding year each local educational agency shall file with the State educational agency:

(1) An assurance that the comparability of services previously demonstrated with respect to title I project areas in accordance with paragraph (c) of this section will be maintained in all such areas, including areas serving migratory children of migratory agricultural workers, that will be designated as title I project areas for the fiscal year beginning that July 1, and

(2) Data on schools serving attendance areas, if any, that will be designated for title I projects for the fiscal year beginning that July 1 but were not designated for such projects in the preceding fiscal year. Such data shall show either that such schools would have been comparable during the preceding fiscal year if those areas had been designated for projects or will, as the result of specific action by the local educational agency, be comparable during the fiscal year beginning that July 1, and

(3) An assurance that the amount of textbooks, library resources, and other instructional materials and supplies (as defined in § 117.1(i) of this chapter) actually available per child for use in each school serving a title I project area will be, for that fiscal year, at least comparable to the amount available per child during such fiscal year in all other public schools in the applicant's district.

(f) For purposes of this section a local educational agency shall group its schools by corresponding grade levels not to exceed three such groups (generally designated as elementary, intermediate or junior high school, and high school or secondary) for all the schools in the agency's district. A school serving grades in two or three such groups shall be included in that group with which it has the greatest number of grades in common. Where the number of grades in common are equal between two or more groups, the school shall be included in the lower grade division. For example, a local educational agency might have the following grade span organization: K–6 (elementary), 7–9 (junior high), and 10–12 (senior high). In addition, the local educational agency might have an intermediate school serving grades 5–8. Since this intermediate school has two grades in common with the elementary division (grades 5 and 6) and two grades in common with the junior high division (grades 7 and 8), it would be included in the lower grade division (elementary) for determining comparability. However, schools serving nine or more grade levels above kindergarten may be considered as a separate group which may, if necessary, constitute a fourth group.

(g) In cases where handicapped children (as defined in § 121.2 of this chapter) or children with specific learning disabilities (as defined in § 121.2 of this chapter) are enrolled in separate special education classes, all those children and the teachers and other instructional staff members who serve them shall not be considered by the local educational agency in determining the comparability of services provided in project areas. Where such special education classes are provided, State and local funds must be used to provide services to handicapped children residing in project areas which are comparable to such services provided to similarly handicapped children residing in nonproject areas.

(h) A school with an enrollment of 100 children or less (as of the date or dates the data required by paragraph (b) of this section are collected) shall not be included for purposes of this section unless the local educational agency operates schools of such size and corresponding grade levels both for areas to be served and areas not to be served under title I of the Act, in which event such schools shall be considered as a separate group.

(i) The requirements of this section are not applicable to a local educational agency which is operating only one school serving children at the grade levels at which services under said title I are to be provided or which has designated the whole of the school district as a project area in accordance with § 116.17(d).

(j) Local educational agencies required to report under this section shall maintain, by individual schools (1) appropriate resource records, including records of children's enrollment, the total expenditure for salary and the amount thereof based solely on longevity for each full-time instructional staff member and the prorated total salary less the amount thereof based solely on longevity for each part-time instructional staff member; (2) worksheets showing the total number of full-time instructional staff members, and the total amount of State and local funds being expended for salaries for such full-time and part-time staff members less the total amount of such salaries based solely on longevity; and (3) appropriate records documenting the amount expended per pupil for textbooks, library resources, and other instructional materials and supplies actually available during the current school year. Such records and worksheets, demonstrating the maintenance of comparability for the entire school year, shall be filed, indexed, and maintained in such a manner that they may be readily reviewed by appropriate local, State, and Federal authorities and shall be retained in accordance with applicable record retention requirements. All such records and worksheets shall be available to the public in accordance with the provisions of § 116.17(n).

(k) By January 1 of each year the State educational agency shall submit to the Commissioner in such form as he will prescribe a copy of the comparability report for each local educational agency in the State which he has determined to be in a national sample of such agencies for that year. The State educational agency shall also submit to the Commissioner by January 1 of each year a report identifying each local educational agency that failed to meet the comparability requirement of paragraph (c) of this section on the date specified under paragraph (b) or (d) of this section and indicating for each such agency either (1) that such local educational agency has allocated or reallocated sufficient additional resources to title I project areas so as to come into compliance with such requirements and has filed a revised comparability report reflecting such compliance or (2) that the State educational agency is withholding the payment of title I funds to the noncomplying local educational agency. A copy of each revised comparability report in such form as the Commissioner will prescribe shall be included with the State educational agency's report to be submitted by January 1. Not later than March 31, the State educational agency shall report to the Commissioner whether any noncomplying local educational agencies have come into compliance, and if so, the State educational agency shall include revised comparibility reports for such local educational agencies reflecting such compliance. If local educational agencies remain out of compliance as of that date, their applications shall be finally disapproved by the State educational agency (subject to the right to a prior hearing as provided in § 116.34(c) of this part); and the entitlements of such agencies shall be made available for reallocation to complying local educational agencies in the State in accordance with the procedures set forth in § 116.9.

(20 U.S.C. 241(e)(a)(3))

[FR Doc.73-12800 Filed 6-27-73;8:45 am]

Appendix C - September 1972 Study

District Name	Number of Title I Schools	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per other Certified Instructional Staff	Criteria 3: Number of Pupils per other Non-certified Instructional Staff	Criteria 4: Expenditures on Instructional Salaries per Pupil (less Longevity Pay)	Criteria 5: Expense per Pupil for other Instructional costs	Criteria 6: Expenditures on Instructional Salaries per Pupil (including Longevity Pay)	Used Comparability Form Recommended by U.S. Office of Education	Submitted Plan to Correct Non-Comparable Schools
ALABAMA											
Birmingham	68	25	37%	0	24	24	ND	0	8	no	no
Huntsville	7	0	0%	0	0	0	0	0	0	no	no
Mobile Co.	62	38	61%	2	18	26	1	1	13	no	no
Montgomery	33	5	15%	0	4	3	ND	0	0	no	no
CALIFORNIA											
Fresno*	8	7	88%	0	1	7	0	0	ND	no	yes
Garden Grove*	6	5	83%	1	5	5	4	0	ND	no	**yes
Long Beach*	5	1	20%	0	0	1	0	0	ND	no	**yes
Los Angeles*	65	38	58%	0	11	26	1	6	ND	no	no
Mount Diablo*	4	1	25%	0	0	0	1	0	ND	no	no
Oakland*	10	3	30%	0	2	3	0	0	ND	no	**yes
Richmond*	5	4	80%	0	1	0	0	4	ND	no	yes
San Diego*	20	9	45%	2	2	7	1	3	ND	no	yes
San Francisco*	10	1	10%	0	0	1	0	0	ND	no	no
San Juan*	5	4	80%	0	3	3	4	0	ND	no	no
COLORADO											
Denver	27	11	41%	2	6	5	3	2	4	yes	no
Jefferson Co.	8	7	88%	0	3	5	2	5	1	yes	no
FLORIDA											
Dade Co. (Miami)	51	17	33%	7	9	17	ND	ND	ND	no	no
Escambia (Pensacola)	32	22	69%	10	13	12	ND	ND	ND	no	no
Hillsborough (Tampa)	51	3	6%	2	1	ND	ND	ND	ND	no	no
Orange (Orlando)	46	9	20%	4	5	4	ND	ND	ND	no	no
Palm Beach	26	12	46%	4	8	4	ND	ND	ND	no	no

District Name	Number of Title I Schools	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per other certified Instructional Staff	Criteria 3: Number of Pupils per other non-certified Instructional Staff	Criteria 4: Expenditures on Instructional Salaries per Pupil (less Longevity Pay)	Criteria 5: Expense per Pupil for other Instructional Costs	Criteria 6: Expenditures on Instructional Salaries per Pupil (including Longevity Pay)	Used Comparability Form Recommended by U.S. Office of Education	Submitted Plan to Correct Non-Comparable Schools
FLORIDA (cont.)											
Polk (Bartow)	60	40		6	12	16	ND	ND	ND	no	no
GEORGIA											
Bibb	28	11	39%	3	3	2	4	0	8	no	yes
Chatham	26	13	50%	7	10	7	7	0	ND	no	**yes
Cobb	6	2	33%	0	1	1	0	2	0	no	**yes
Dekalb	31	19	61%	0	4	19	1	0	0	no	no
Fulton	20	12	60%	1	2	4	2	5	5	no	**yes
Muscogee	32	7	22%	0	3	1	1	0	4	no	yes
ILLINOIS											
Chicago*°	370	180	49%	103	25	25	142	0	164	no	no
Rockford*	16	9	56%	1	4	4	3	3	5	no	no
INDIANA											
Indianapolis°	22	11	50%	1	2	8	2	0	5	yes	**yes
IOWA											
Des Moines	18	7	39%	2	0	6	1	1	1	yes	no
KANSAS											
Kansas City*	25	14	56%	4	10	ND	3	7	6	yes	no
Wichita*°	35	15	43%	3	6	8	7	0	5	yes	no
KENTUCKY											
Fayette Co.	20	7	35%	1	1	1	2	5	2	yes	**yes
Louisville	31	25	81%	1	19	21	0	8	6	yes	no
LOUISIANA											
Calcasieu	27	22	81%	5	13	13	3	0	6	yes	no
Jefferson	49	29	59%	5	8	9	8	15	9	yes	no

District Name	Number of Title I Schools	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per other Certified Instructional Staff	Criteria 3: Number of Pupils per Other Non-Certified Instructional Staff	Criteria 4: Expenditures on Instructional Salaries per Pupil (less Longevity Pay)	Criteria 5: Expense per Pupil for Other Instructional Costs	Criteria 6: Expenditures on Instructional Salaries per Pupil (including Longevity Pay)	Used Comparability Form Recommended by U.S. Office of Education	Submitted Plan to Correct Non-Comparable Schools
LOUISIANA (cont.)											
Orleans	94	79	84%	43	57	35	23	39	47	no	no
MASSACHUSETTS											
Boston*	43	23	53%	17	0	0	13	7	ND	no	no
MICHIGAN											
Detroit	126	108	86%	42	41	44	80	43	79	no	no
Flint	22	11	50%	2	7	6	2	5	0	no	**yes
Lansing	22	18	82%	6	9	10	4	0	7	no	yes
MINNESOTA											
Minneapolis	33	5	15%	1	1	1	2	0	3	no	yes
St. Paul	39	12	31%	3	6	3	2	4	3	no	**yes
MISSISSIPPI											
Jackson	24	10	42%	8	5	2	8	4	6	no	no
MISSOURI											
St. Louis	55	24	44%	7	10	5	11	2	18	yes	**yes
NEBRASKA											
Omaha	19	4	21%	0	1	1	1	2	0	no	no
NEVADA											
Clark Co.	12	6	50%	2	2	4	1	2	1	yes	no
NEW JERSEY											
Newark*	57	51	89%	8	19	42	20	25	24	yes	no
NEW YORK											
Rochester	24	21	88%	10	4	9	7	10	12	yes	yes
OHIO											
Akron*	28	5	18%	1	0	0	1	0	4	yes	no

District Name	Number of Title I Schools	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Pupils per other Certified Instructional Staff	Criteria 3: Number of Pupils per other Non-certified Instructional Staff	Criteria 4: Expenditures on Instructional Salaries per Pupil (less longevity pay)	Criteria 5: Expense per Pupil for other Instructional costs	Criteria 6: Expenditures on Instructional Salaries per Pupil (including longevity pay)	Used Comparability Form Recommended by U.S. Office of Education	Submitted Plan to Correct Non-comparable Schools
OHIO (cont.)											
Cincinnati*	15	14	93%	0	4	2	0	13	0	yes	no
Cleveland*	74	23	31%	10	7	4	9	1	13	yes	**yes
Columbus*	48	24	50%	4	10	10	1	5	0	yes	yes
Dayton*	21	17	81%	3	6	11	0	10	2	yes	**yes
Toledo*	32	24	75%	4	22	1	4	2	8	yes	**yes
OKLAHOMA											
Tulsa	37	21	57%	2	8	10	2	9	6	no	no
OREGON											
Portland*	22	5	23%	0	2	5	1	0	ND	yes	yes
PENNSYLVANIA											
Philadelphia	167	144	86%	63	100	105	78	118	100	no	no
SOUTH CAROLINA											
Charleston	32	29	91%	10	5	12	10	20	12	no	yes
Greenville	51	37	73%	1	12	34	2	2	3	no	**yes
TENNESSEE											
Memphis	59	51	86%	0	12	0	10	45	0	no	**yes
Shelby Co.	25	3	12%	2	0	0	2	1	0	no	no
TEXAS											
Austin	20	2	10%	0	0	2	0	1	0	no	**yes
Corpus Christi	20	11	55%	2	10	9	3	0	0	no	**yes
Dallas	36	7	19%	4	1	2	4	0	0	no	yes
Fort Worth	41	26	63%	2	9	13	3	20	0	no	**yes
Houston	46	39	85%	0	6	23	12	37	0	no	yes
Pasadena	10	1	10%	0	1	1	0	0	0	no	**yes

District Name	Number of Title I Schools	Number of Title I Schools Not Comparable	Percentage of Schools Not Comparable	Criteria 1: Number of Pupils per Teacher	Criteria 2: Number of Certified Non-Instructional Staff	Criteria 3: Number of Non-Certified Instructional Staff	Criteria 4: Expenditures on Instructional Salaries per Pupil (Including Longevity Pay)	Criteria 5: Expense per Pupil for Other Instructional Costs	Criteria 6: Expenditures on Instructional Salaries per Pupil (Including Longevity Pay)	Used Comparability Data Presented in U.S. Office of Ed. Area	Submitted Plan to Correct Non-Comparable Schools
TEXAS (cont.)											
San Antonio	67	48	72%	17	30	33	14	12	0	no	**yes
Spring Branch	6	2	33%	2	0	0	2	2	0	no	yes
Ysleta	15	9	60%	1	8	6	2	3	0	no	yes
UTAH											
Salt Lake City	9	4	44%	2	1	1	1	3	2	yes	no
VIRGINIA											
Fairfax	20	10	50%	1	6	1	2	3	7	no	no
Norfolk*	30	18	60%	7	13	13	4	6	4	no	no
Richmond	11	7	64%	4	5	2	2	2	4	no	no
Virginia Beach	12	11	92%	9	7	2	10	ND	7	no	yes
VERMONT											
Granite	13	11	85%	1	1	5	0	8	0	yes	no
WASHINGTON											
Tacoma	12	7	58%	0	5	2	1	1	0	no	no
TOTALS	2,914	1,627	55.83%	478	692	769	557	537	624	23	37
				29.38%	42.53%	47.26%	33.01%	33.01%	38.35%	yes	yes

ND - No Data
* - Including special schools

* - Analysis based on 1969-1970 data
** - These plans included information concerning "projected budgets, staff assignments, and other pertinent matters showing that comparability will be achieved by the beginning of [the 1972-73 school] year," as required by the U.S. Office of Education regulations on comparability.